

Appl. No. 10/089,329  
Atty. Docket No. 7821  
Amdt. dated February 5, 2004  
Reply to Office Action of January 14, 2004  
Customer No. 27752

### REMARKS

Claims 1 and 2 are canceled. Claims 3-27 are pending in the present application. Claims 3, 14, and 27 have been amended to particularly point out and to distinctly claim the subject matter of the present invention.

#### Rejection under 35 USC § 112

The Examiner has rejected Claims 14-21, 24-25 and 27 under 35 USC § 112, first paragraph, as allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. The amendments herein to Claims 14 and 27 obviate the Examiner's rejection under 35 USC § 112, first paragraph.

The Examiner has rejected Claims 3-25 under 35 USC § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The amendments to Claims 3 and 14 obviate the rejection under 35 USC § 112, second paragraph.

Reconsideration and withdrawal of the rejection to the Claims under 35 USC § 112 is therefore respectfully requested.

#### Rejection under 35 USC § 102(b)

The Examiner has rejected Claims 14-21 and 24-25 under 35 USC § 102(b) as allegedly being anticipated by Wu et al., *Tetrahedron Letters*, 41(8), pages 1159-1163 (2000). The amendments herein to Claims 14 and 27 overcome the Examiner's objection to the priority claim from PCT /US/00/27503 which claims priority from U.S. Provisional Application Serial No. 60/158,660, filed October 8, 1999 has been obviated by the amendments to Claim 14 herein. The proper claim to these priority application in turn obviate the Examiner's rejection under 35 USC § 102(b).

The Examiner has rejected Claim 27 under 35 USC § 102(b) as allegedly being anticipated by Wu et al., *Tetrahedron Letters*, 41(8), pages 1159-1163 (2000). The amendments herein to Claims 14 and 27 overcome the Examiner's objection to the priority claim from PCT /US/00/27503 which claims priority from U.S. Provisional Application Serial No. 60/158,660, filed October 8, 1999 has been obviated by the amendments to Claim 27 herein. The proper claim to these priority application in turn obviate the Examiner's rejection under 35 USC § 102(b).

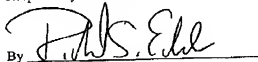
Reconsideration and withdrawal of the rejection of the Claims under 35 USC § 102(b) is therefore respectfully requested.

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### CONCLUSION

Applicants have made an earnest effort to place the present claims in condition for allowance. **WHEREFORE**, reconsideration of the claims in light of the Remarks provided, withdrawal of the Restriction Requirement and Election of Species, and allowance of Claims 3-27, are respectfully requested. In the event that issues remain prior to allowance of the noted claims, then the Examiner is invited to call Applicants' undersigned agent to discuss any remaining issues.

Respectfully submitted,

By 

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Paper No.

## Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 12/8/03 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, Jun. 30, 2003). In order for the amendment document to be compliant, correction of the following item(s) is required. Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted. 37 CFR 1.121(b).

## THE FOLLOWING CHECKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
- ☐ B. New paragraph(s) should not be underlined.
- ☐ C. Other \_\_\_\_\_
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
- ☐ B. Other \_\_\_\_\_
- ☐ 3. Amendments to the drawings: \_\_\_\_\_
- ☒ 4. Amendments to the claims:
- ☒ A. A complete listing of all of the claims is not present.
- ☐ B. The listing of claims does not include the text of all claims (including withdrawn claims)
- ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified.
- ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
- ☐ E. Other: \_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/erognotice/officerfver.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given **ONE MONTH** from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this **ONE MONTH** time limit is not extendable.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION** (including a submission for an RCE), and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(e)), applicant is given a **TIME PERIOD** of **ONE MONTH** from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. The period for response to a final rejection continues to run from the date set in the final rejection, and is not affected by the non-compliant status of the amendment.

*Legal Instruments Examiner (LIE)*

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